

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ERIK RODRIGUEZ §  
v. § CIVIL ACTION NO. 6:15cv282  
JOHN RUPERT, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT


This lawsuit was part of a larger complaint which was severed into cases for each listed plaintiff. Upon severance, the individual plaintiffs were directed to file amended complaints and pay the filing fee or seek leave to proceed *in forma pauperis*. When the Plaintiff Erik Rodriguez did not do so, the magistrate judge issued a report recommending that the lawsuit be dismissed. In response to this report, Rodriguez asked to be removed from all matters concerning the case, essentially requesting that the lawsuit be dismissed.

The Court has reviewed the pleadings and the report of the magistrate judge and has determined that this report is correct. Nonetheless, Rodriguez's request for voluntary dismissal should be granted. See Carter v. United States, 547 F.2d 258, 259 (5th Cir. 1977) (plaintiff has absolute right to dismiss his complaint under Rule 41(a), Fed. R. Civ. P., prior to the filing of an answer or motion for summary judgment); Thomas v. Phillips, 83 Fed.Appx. 661, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing Carter). It is accordingly

**ORDERED** that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** on the motion of the Plaintiff. It is further

**ORDERED** that any and all motions which may be pending in this action are hereby  
**DENIED.**

**SIGNED this 21st day of March, 2016.**

  
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MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE